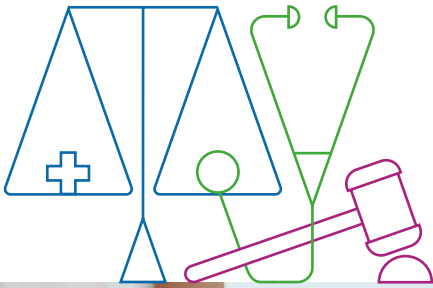


# SENIOR CARE **RISK MANAGEMENT SERVICES OVERVIEW**



# Negligence, Inadequate Documentation, and Training Failures in a Senior Care Facility

### Allegations

The estate of the injured resident filed a lawsuit alleging negligence on the part of both the facility and the employee.

### Brief Facts

- 51 YOM
- **Primary Diagnosis:** Obese with body myositis, a form of inflammatory muscle disease characterized by slowly progressive weakness and muscle wasting, predominantly affecting the arms and legs.
- **Mobility:** Primarily wheelchair-dependent, but partially ambulatory with significant limitations due to progressive muscular disease with preserved capacity for brief activities of daily living in the early part of the day.

### Incident Details

- The incident occurred when a temporary nursing assistant (NA) attempted to transfer the resident from his bed to an electric wheelchair using a mechanical lift.
- The NA, although familiar with other types of lift machines, was inexperienced with the specific model available in the facility.
- Despite this, she proceeded with the transfer without seeking further training or assistance.



## During the Transfer

- The NA positioned the resident in the sling and attached it to the lift's overhang bars.
- She turned the lift on and began raising the resident out of bed.
- The NA failed to fully spread the legs of the lift to stabilize it before moving the machine backward.
- As she attempted to maneuver the lift, it became unstable and tilted, resulting in the resident falling from the lift onto the floor, landing on his left hip.

## Injury and Medical Intervention

- The fall caused the resident to suffer bilateral femoral neck fractures, with the right femoral neck fracture being particularly severe and displaced. The resident underwent percutaneous screw fixation surgery to stabilize both fractures using 8 mm diameter screws.
- Post-surgical radiology reports indicated that while the left hip fracture healed in proper alignment, the right hip fracture collapsed with further displacement.
- The resident experienced ongoing pain in his right hip, described as constant but with varying intensity.
- These complications severely impacted his mobility, necessitating continued reliance on a wheelchair for movement and significantly diminishing his quality of life.

## Complicating Factors

- **Failure to Supervise:** The facility failed to ensure that temporary staff were adequately supervised, particularly when handling complex equipment like mechanical lifts.
- **Inadequate Training:** The facility did not provide sufficient training for the temporary staff, leading to improper use of the lift and the subsequent injury to the resident.
- The NA, despite being aware of her unfamiliarity with the specific lift model, did not seek additional training or assistance, directly contributing to the fall and injury.
- **Inadequate Post-Fall Documentation:** Following the resident's fall, there was a notable lack of documentation regarding the incident in the medical records. The facility failed to adequately record critical details, including the circumstances of the fall, the resident's condition immediately afterward, and the steps taken to address the potential injuries. The absence of detailed documentation significantly impaired the ability to provide a comprehensive evaluation of the incident.
- **Failure to Conduct a Post-Fall Huddle:** In addition to the documentation issues, the facility did not perform a post-fall huddle or conduct a thorough investigation as required by standard protocols. Post-fall huddle is essential for analyzing the factors that contributed to the fall, assessing the patient's risk for further incidents, and implementing measures to prevent recurrence. The failure to carry out these critical steps not only violated best practices but also left potential risks unaddressed and further compromised patient safety.

## Impact on Quality of Life

The resident's life was drastically altered by the injury. The chronic pain and the mechanical failure of the right hip led to persistent discomfort and further immobility. His ability to use his hips was compromised, leaving him almost entirely dependent on his wheelchair. The resident's overall quality of life deteriorated, marked by constant pain, decreased independence, and emotional distress.

### Resolution:

The combination of these issues—lack of documentation, improper training, and insufficient supervision creating an environment where patient safety was compromised—were central to the decision to settle the case, as they significantly undermined the defense.

## Conclusion

This case highlights the critical importance of proper training and supervision in healthcare settings, particularly when utilizing specialized equipment. The failure of the senior care facility to ensure that temporary staff were adequately prepared for their roles not only led to a severe injury but also exposed the facility to significant legal and reputational risks. The incident serves as a cautionary tale for other facilities relying on temporary staffing solutions, emphasizing the need for rigorous training protocols and supervisory oversight.

# Risk Reduction Strategies

- **Enhanced Documentation Protocols:** Implement standardized documentation protocols to ensure thorough recording of patient assessments, interventions, and responses, including falls, injuries, and preventive measures.
- **Mandatory Formal Training:** Ensure all temporary staff receive comprehensive training on the use of specialized equipment like Hoyer lifts, certified by a qualified professional.
- **Documentation of Training:** Keep detailed records of all training sessions, including dates, content covered, and signatures of both the trainer and the trainee to confirm understanding.
- **Regular Equipment Checks:** Implement routine maintenance and safety checks for all mechanical equipment to ensure proper functioning and stability during use.
- **Supervised Onboarding:** Adhere strictly to policies requiring a nurse supervisor to orient new aides, including hands-on demonstrations and assessments of competency in equipment use.
- **Chain of Command/Clear Communication Channels:** Establish robust communication protocols within the agency to prevent miscommunication and ensure all staff are informed of their roles and responsibilities.
- **Incident Reporting System:** Develop a transparent incident reporting system that encourages reporting of near-misses and accidents, fostering a culture of continuous improvement.
- **Legal and Ethical Training:** Provide training on legal and ethical aspects of senior care to all employees to reinforce the importance of adhering to standards of care.
- **Emergency Response Plan:** Create and regularly update an emergency response plan, ensuring all caregivers are prepared to act swiftly and appropriately in case of an accident.

# SENIOR CARE DATA & INDUSTRY TRENDS

ProAssurance is a contributing member of the Medical Professional Liability Association (MPLA) closed claims data sharing project. As such, the general data listed below includes claims data showing industry trends specific to senior care facility claims from 2012 through 2019. Using this information, our risk management department can target specific areas of senior care facilities to deploy risk mitigation strategies and resources.

**Source for all data at right:**  
Data Sharing Project Dashboard (2010-2019). MPL closed claims. MPL Association. Retrieved by ProAssurance (March 7, 2024).

Claims include those located in assisted living facilities and skilled nursing facilities.

**“Over the past decade, we’ve observed significant spikes in indemnity payments in Senior Care. Data gathered while analyzing trends like these helps us craft targeted tools and strategies to help mitigate risk and safeguard your practice or facility.”**

Aaron R. Hamming, JD, CPHRM  
Director, Risk Management Data Analytics and Technology

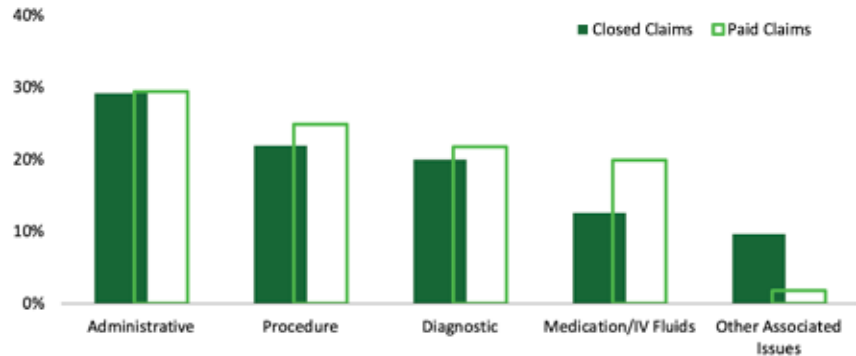
## How does Senior Care stack up against all medical specialties?

	Total Closed Claims	Total Paid Claims	Average Indemnity Paid	Total Indemnity Paid
<b>Senior Care</b>	<b>1,213</b>	<b>221</b>	<b>\$133,361</b>	<b>\$29 Million</b>
All Specialties	83,757	22,574	\$347,761	\$7.9 Billion

### Takeaways:

- The average indemnity paid on Senior Care claims was 89% below the overall average.
- Senior Care claims made up 0.4% of overall indemnity paid.
- Senior Care claims make up 1% of all paid claims.

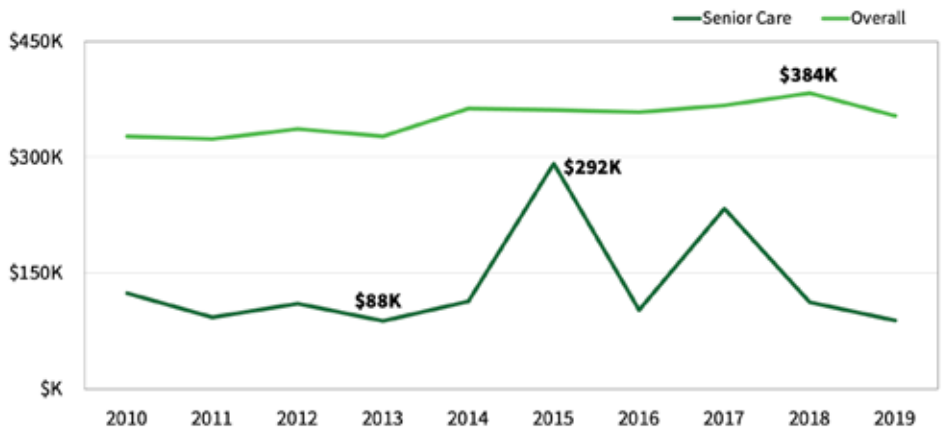
## Most Common Primary Allegations in Senior Care Claims



In the context of MPL data, administrative procedures typically refers to allegations related to administrative errors or misunderstandings of the administrative tasks within the senior care facilities. They can include issues such as improper documentation, billing errors, failure to follow protocols, or inadequate training.

On the other hand, diagnostic allegations involve errors or issues related to the diagnostic processes within the senior care facility. They could encompass misdiagnosis, delayed diagnosis, failure to diagnose, or errors in interpreting diagnostic test results. These claims often focus on alleged negligent care or mistakes made during the diagnostic phase of the care.

## Average Indemnity Trends: Senior Care vs. All Specialties



### Takeaways:

- The average indemnity of Senior Care claims was consistently below the overall average.
- The highest average severity of Senior Care claims was \$292K in 2015.

# SENIOR CARE RISK MANAGEMENT SERVICES

## Online Senior Care Resources

Effective communication is integral to quality healthcare. You may have excellent clinical skills and a state-of-the-art facility; however, if communication is not a priority, you may increase your liability exposure. Consider incorporating the risk reduction strategies and guidelines introduced in these resources to further enhance patient safety.

ProAssurance's Risk Management department website provides Senior Care Facilities resources, including information on falls, post-fall huddle components, communication skills, and more at [RiskManagement.ProAssurance.com](https://RiskManagement.ProAssurance.com).



## Senior Care Malpractice Case Studies

By presenting actual case histories of malpractice claims, malpractice case studies are intended to help healthcare professionals recognize some of the common causes of malpractice claims.



Scan for senior care-specific case studies or visit [pralinks.proassurance.com/3WU0ASz](https://pralinks.proassurance.com/3WU0ASz)

## Senior Care Risk Management Education

Your Risk Management team provides quality education for physicians, advanced practice providers, practice managers, and staff through online seminars and live virtual webinars often carrying CME credits. Additional educational resources include risk management guidelines, 2-minute videos, Rapid Risk Review podcast, sample forms, and text-based CME publications. No matter the level of time commitment, ProAssurance has an educational offering to fit everyone.

## Consultation with Risk Management Consultants

The ProAssurance Risk Management department is here to help you promote patient safety, minimize risk, and improve defensibility of claims by providing comprehensive assessment and training resources that are relevant and easy to share.

Your physicians, administrators, and healthcare staff have access to a team of risk consultants with a wide range of backgrounds, including prior experience as healthcare administrators, attorneys, nurses, and quality professionals. Risk consultants assist insureds with their liability concerns and questions using specialized knowledge of healthcare risk management issues and the Company's experience defending claims.

**Helpline: 1-844-223-9648**

**Monday through Friday, 8 a.m. – 5 p.m.**

**Email: [RiskAdvisor@ProAssurance.com](mailto:RiskAdvisor@ProAssurance.com)**



***“Our Senior Care risk management resources are developed in response to closed claims and validated industry data.***

***Our goal is to identify risks to keep our caregivers out of the courtroom and in position to help patients.”***

Mallory B. Earley, JD  
Director, Risk Management

# ANNUAL BASELINE SELF-ASSESSMENT DATA

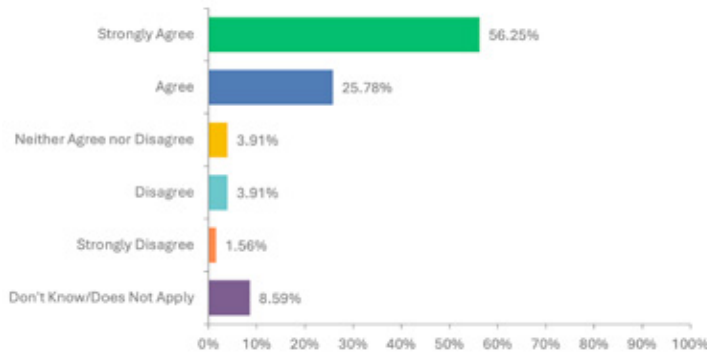
The ProAssurance Risk Management department launched the Annual Baseline Self-Assessment (ABSA) in 2024, with specific questions to identify areas of risk in the practice through surveying both physicians and medical staff.

Here is a sneak peek of a few questions and early results from Q1 and Q2 2024. These questions and charts would be compiled in a full report to share with the practice to show how they answered in comparison to these overall benchmarks. A ProAssurance Risk Management consultant would create a tailored plan and distribute it to the practice with educational resources to improve identified areas of concern.

## Sample Results

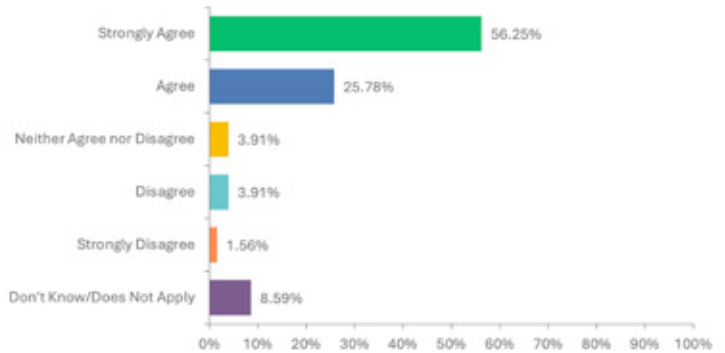
### Question:

Everyone is willing to report deviations from protocol they observe.



### Question:

Licensed staff are trained to respond to emergent patient conditions arising during and after the procedure.



ProAssurance successfully deployed the standard ABSA question set in early 2024, and we are currently developing specialty-specific tools to address specialty-specific risks. A devoted question set in addition to the standard topics is needed to better understand the needs of Senior Care clients. The Risk Management team developed a Senior Care-specific tool in 2024, and we have a limited number of completions at this time. Below is a sample of those Senior Care questions:

## Sample Senior Care ABSA Questions

A post-fall “huddle” is a brief meeting to identify opportunities to improve patient safety, collaboration, and teamwork.

- a. True
- b. False

What information should be communicated to the oncoming nursing assistant at shift change?

- a. Change in diet order
- b. The last time the resident was turned and repositioned.
- c. Any change of condition.
- d. All of the above.

Your unit has received a new resident lift. You have not been in-serviced on how to safely use it. You:

- a. Try to use the lift without being trained.
- a. Ask another staff member to show you how to use it.
- a. Let your charge nurse know you have not been trained and ask for training before attempting to use the lift to transfer a resident.
- a. Use only the older lifts that you know how to use.

**2,700+**

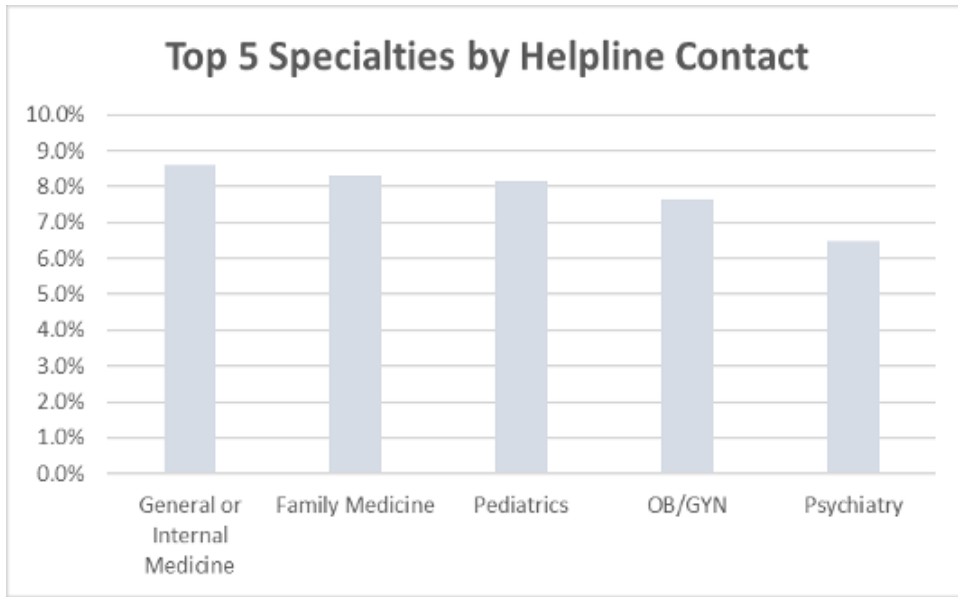
assessment responses received from 129 practices to evaluate risk management knowledge gaps

These numbers were extracted from 2024 ProAssurance risk management data.

The immediate objective of the ABSA is to find and address current gaps within the individual practice, and there will be benchmarking benefits over time. The aggregate data will allow insureds to compare their practice to others based on specialty, location, group size, and more. The annual nature of the program will allow them to see progress over time.

# HELPLINE DATA

## Helpline Data Q1 & Q2 2024



**4,000+**  
contacts were made with a ProAssurance Risk Management consultant by helpline or email

These numbers were extracted from 2023 ProAssurance risk management data.

Your healthcare team can rely on ProAssurance’s dedicated team of Risk Management consultants for help navigating medical liability trends and improving practice procedures.

**Helpline: 1-844-223-9648**  
**Monday through Friday, 8 a.m. – 5 p.m.**  
**Email: [RiskAdvisor@ProAssurance.com](mailto:RiskAdvisor@ProAssurance.com)**

## SENIOR CARE MALPRACTICE CLAIMS DEFENSE

Over the last five years, we have established a better than 7:1 trial win/loss ratio. But our proudest achievement is the sheer volume of claims we’ve been able to close without indemnity and without going to trial.

In addition to working for you in and out of the courtroom, we also work tirelessly to be an advocate for medical professionals when it comes to legislation and tort reform that may impact your practice of medicine.

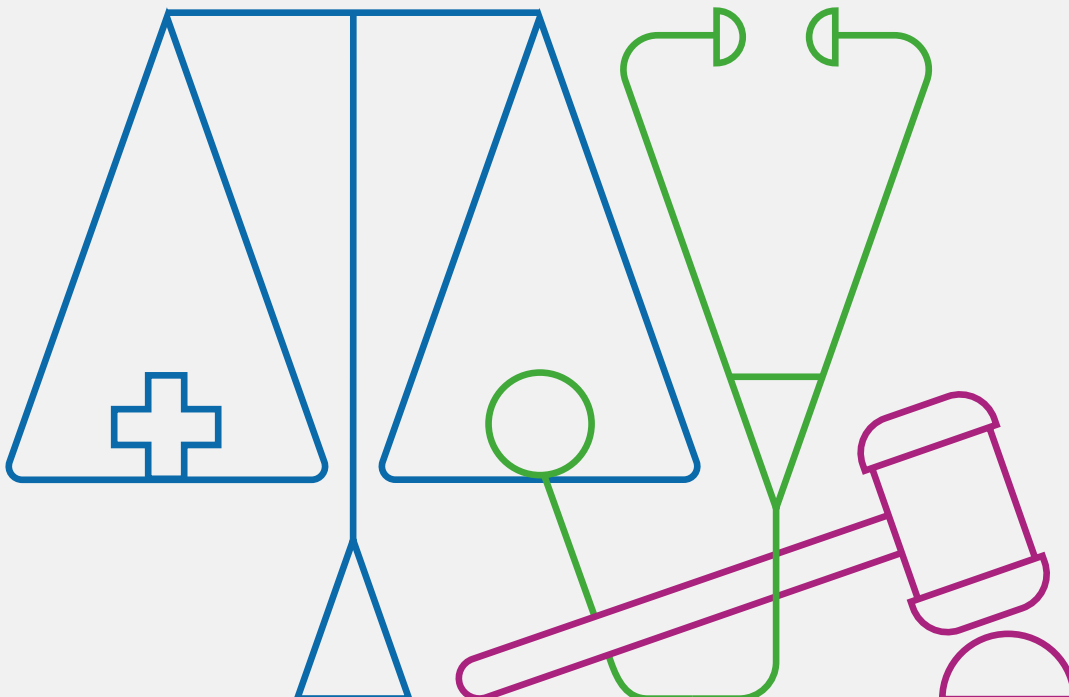
## 5-year ProAssurance Claims summary, 2019-2023\*

**23,000+**  
open malpractice claims managed by ProAssurance

**96%**  
of closed claims resolved without going to trial

**78%**  
of claims closed without indemnity (no money was paid to the plaintiff)

Medical malpractice claims from 2019 to 2023 extracted from the ProAssurance MPL claims reporting system.



## HELPING SENIOR CARE FACILITIES

- Minimize exposure
- Maximize defensibility
- Practice with confidence

We consider all cases seriously, and if our insured receives notice of a potential claim, we take action to ensure they are treated fairly. We provide experienced malpractice counsel, bringing clarity developed on a national scale to the Senior Care claims process.

